

**PROGRAMMATIC AGREEMENT
AMONGST THE
NEW HAMPSHIRE HOUSING
LEAD HAZARD CONTROL PROGRAM,
AND
THE NEW HAMPSHIRE STATE HISTORIC PRESERVATION OFFICER**

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) has awarded a grant to New Hampshire Housing (Grant Recipient) under the Lead-Based Paint Hazard Control Program (Program); and

WHEREAS, Title X of the Housing and Community Development Act of 1992 (PL 102-550), otherwise known as the Residential Lead-Based Paint Hazard Reduction Act of 1992, directs HUD to conduct a grant program for State and units of local government to inspect and treat lead-based paint hazards in privately owned housing occupied by low income persons; and

WHEREAS, the purpose of Title X is to implement, on a priority basis, a broad program to evaluate and reduce lead-based paint hazards and the threat it poses for childhood lead poisoning; and

WHEREAS, pursuant to the Multifamily Housing Property Disposition Reform Act of 1994, HUD has allowed the responsibility for compliance with the requirements of Section 106 of the National Historic Preservation Act to be assumed by the grant recipient; and

WHEREAS, the definitions given in 'Attachment A' are applicable throughout this Programmatic Agreement;

NOW THEREFORE, the grant recipient, the State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (Council) agree that the Program shall be administered in accordance with the following stipulations to satisfy the grant recipient's Section 106 responsibilities for all individual undertakings of the program.

STIPULATIONS

The Grant Recipient will ensure that the following measures are carried out:

I. IDENTIFICATION OF PROPERTIES

In accordance with 36 CFR 800.4, the Grant Recipient in consultation with the New Hampshire SHPO will identify historic properties.

A. Level of Identification Efforts:

1. The Grant Recipient shall review 1) the current listing of the National Register; 2) local or county surveys which have been approved by the SHPO; and 3) State surveys to determine whether properties listed in or eligible for listing on the National Register may be affected by the Lead Hazard Reduction Program.
2. SHPO's site files and previous reviews are available for the Grant Recipient to review prior to making a reconnaissance level survey. Survey information will be made available to the Grant Recipient electronically. Grant Recipient agrees that the data will not be displayed or shared publicly or in map form. The data will not be shared outside of the programs reviewed under this PA without the express permission of the SHPO. The Grant Recipient understands that this document is a static document and will not contain information submitted to or reviewed by the SHPO after the date on this document. Therefore, it will be the responsibility of the Grant Recipient to update this information at regular intervals not less than 6 months apart. Failure to update file information regularly may result in revocation of the use of the electronic file.
3. Grant Recipient may choose to complete full inventory forms in order to expedite review.
4. Grant Recipient will submit inventory forms as soon as target properties are identified in order to expedite review and project schedules.
5. If ground disturbing activities are proposed (other than lateral water and sewer line replacement), the Grant Recipient will consult with the SHPO prior to any such activity to determine if the activity has the potential to affect National Register or National Register eligible archaeological properties. If such potential exists, the Grant Recipient will conduct an archaeological survey in accordance with 36 CFR 66, Appendices B and C.
6. If archaeological resources are found which meet the National Register criteria, they will be avoided or preserved in place whenever feasible. If this is not feasible, the Grant Recipient will

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consult with the SHPO to develop and implement a treatment consistent with the Council's handbook, Treatment of Archaeological Properties, and approved by the SHPO.

- B. Due to their non-adverse impacts, the activities listed in Appendix 1 have been determined to have no potential to affect resources and therefore are exempt from SHPO's review and do not require further consultation with the SHPO.

II. TREATMENT

Properties that are listed on the National Register or that are considered to be individually eligible for the National Register, or that are located within a district and considered to be eligible for the National Register, will be treated in the following manner:

- A. Properties that are to be rehabilitated in accordance with the recommended approaches in *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Rehabilitating Historic Buildings* (as revised 1995 and 2001).
- B. Prior to undertaking any activities that are not exempt under STIPULATION I, B, the Grant Recipient will forward information following request for project review (RPR) procedures on the rehabilitation projects (including work write-ups and photographs, as necessary) to SHPO for review and concurrence to ensure that above noted standards are being met.
- C. If the above noted standards cannot be met, or if demolition is proposed, or if the proposed activity may have an indirect effect on such properties, prior to taking any action, the Grant Recipient will consult with the SHPO and initiate the procedures set forth at 36 CFR 800.6.

III. PUBLIC INVOLVEMENT

Each year the Grant Recipient will notify the public of and make available for public inspection documentation on the Grant Recipient's current Federal Programs. Included in this documentation will be general information on the funds; information on identified historic properties which might be affected by these activities; the amount of funds available in the current program year; and how interested persons can receive further information on the programs.

ADMINISTRATIVE CONDITIONS

I. PERSONNEL QUALIFICATIONS

For projects that have been determined to have an adverse effect to National Register properties, the Grant Recipient shall ensure that all historic preservation work carried out pursuant to this PA will be by or under the direct supervision of a person or persons meeting at a minimum the Secretary of the Interior's Professional Qualification Standards for Architectural Historian Professionals (48 FR 44738-9). The Grant Recipient shall ensure that all archaeological investigations carried out pursuant to this Agreement will be by or under the direct supervision of a person or persons meeting at a minimum the Secretary of the Interior's Professional Qualification Standards for Archaeologists (48 FR 44738-9).

II. LATE DISCOVERY

If any unanticipated discoveries of historic properties or archaeological sites are encountered during any of the work covered under this PA, the Grant Recipient shall suspend work in the area of the discovery and shall comply with 36 CFR 800.6(c)(6). The Grant Recipient will notify the SHPO within twenty-four (24) hours of the discovery. The Grant Recipient and the SHPO will meet at the location within seventy-two (72) hours of the SHPO's initial notification to determine appropriate treatment of the discovery prior to the resumption of construction activities in the area of the discovery.

III. AMENDMENTS

Any party to this PA may propose that the PA be amended, whereupon the parties shall consult with one another to consider such an amendment in accordance with 36 CFR 800.6(c)(7).

IV. RESOLVING OBJECTIONS

- A. Should any party to this PA object in writing to the Grant Recipient regarding any action carried out or proposed with respect to any work covered under this agreement or to the manner in which such work is being implemented under this PA, the Grant Recipient shall consult with the objecting party to resolve the objection. If after initiating such consultation, the Grant Recipient determines that the objection cannot be resolved through consultation, the Grant Recipient shall forward all documentation relevant to the objection to the Council including the Grant Recipient's proposed response to the objection. Within thirty (30) days after receipt of all pertinent documentation, the Council shall exercise one of the following options:

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1. Advise the Grant Recipient that the Council concurs in the Grant Recipient's proposed response to the objection, whereupon the Grant Recipient shall respond to the objection accordingly; or
 2. Provide the Grant Recipient with recommendations, which the Grant Recipient shall take into account in reaching a final decision regarding its response to the objection; or
 3. Notify the Grant Recipient that the objection will be referred for comment pursuant to 36 CFR 800.7 and proceed to refer the objection and comment. The resulting comment shall be taken into account by the Grant Recipient in accordance with 36 CFR 800.7(c)(4) and Part 110(1) of the NHPA.
- B. Should the Council not exercise one of the above options within thirty (30) days after receipt of all pertinent documentation, the Grant Recipient may assume the Council's concurrence in its proposed response to the objections.
- C. The Grant Recipient shall take into account any Council recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; the Grant Recipient's responsibility to carry out all actions under this PA that are not the subjects of the objection shall remain unchanged.

V. RESOLUTION OF OBJECTIONS BY THE PUBLIC

Should an objection pertaining to historic preservation or implementation of the items of this PA be raised by a member of the public in a timely and substantive manner, the Grant Recipient shall notify the parties to this PA and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this PA to resolve the objection.

VI. REPORTING

New Hampshire Housing shall provide NHPHO upon request with an annual report on this agreement for the previous calendar year on March 31st of each year that this agreement is in effect. This report shall summarize projects on which Section 106 reviews were not performed and why. Upon request of either signatory, meeting shall be held subsequent to the submittal of the annual report to review the report and/or discuss issues in greater detail.

VII. REVIEW OF IMPLEMENTATION

If the stipulations have not been implemented within two (2) years after execution of this PA, the parties to this agreement shall review the PA to determine whether revisions are needed. If revisions are needed, the parties to this PA shall consult in accordance with 36 CFR 800 to make such revisions.

VIII. SUNSETTING/DURATION

If the terms of this PA have not been implemented by five (5) years from date of signed PA, this PA shall be considered null and void. In such event the Grant Recipient shall so notify the parties to this PA, and if it chooses to continue with the undertakings covered under this agreement, shall reinstate review of such projects in accordance with 36 CFR 800.

IX. TERMINATION

If the Grant Recipient determines that it cannot implement the terms of this PA, or the SHPO determines that the PA is not being properly implemented, the Grant Recipient or the SHPO may propose to the other parties to this PA be terminated.

The party proposing to terminate this PA shall so notify all parties to this PA, explaining the reasons for termination and affording them at least thirty (30) days to consult and seek alternatives to termination. The parties shall then consult.

Should consultation fail, the Grant Recipient or the SHPO may terminate the PA by so notifying all parties.

- A. Should this PA be terminated, the Grant Recipient shall either:
1. Consult in accordance with 36 CFR 800.6(a)(1) to develop a new PA; or
 2. Request the comments of the Council pursuant to 36 CFR 800.7(a)(1). The Council shall have forty-five (45) days to respond with comments.

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- B. The Grant Recipient and the Council may conclude the Section 106 process with an PA between them if the SHPO terminates consultation in accordance with 36 CFR 800.7(a)(2).

Execution of this Programmatic Agreement and carrying out its terms evidences that the Grant Recipient has afforded the Council a reasonable opportunity to comment on this undertaking and has satisfied its Section 106 responsibilities for all individual undertakings of the program.

THE GRANT RECIPIENT OF NEW HAMPSHIRE:

By: 
Christopher R. Miller, Managing Director, New Hampshire Housing

Date: 5/13/13

NEW HAMPSHIRE STATE HISTORIC PRESERVATION OFFICER:

By: 
Elizabeth H. Muzzey, NH State Historic Preservation Officer

Date: 5/15/13

APPENDIX I

The following activities **DO NOT** require review by the SHPO, pursuant to "Stipulation I, B":

1. Abatement/hazard reduction activities for a property where a child has been found with an elevated lead blood level and immediate action is needed to avoid further risk. The grant recipient shall advise the SHPO of such actions within fourteen (14) days following the initiation of activities. Upon completion of initial abatement/hazard reduction activities, the grant recipient shall comply with the terms of the Programmatic Agreement prior to undertaking further activities on the affected historic property.
2. Rehabilitation of a non-historic structure, or where 75% of original windows have already been replaced with new vinyl or aluminum clad wood components to match the visual components of the historic originals as closely as possible, except when a proposed addition may impact a surrounding or adjacent historic district.
3. Work on any building that is less than 50 years of age.
4. Mechanical systems when repair, replacement and installation of the following systems does not affect the exterior or require the installation of new ducts through the interior:
 - a. electrical work;
 - b. plumbing pipes and fixtures;
 - c. heating system improvements;
 - d. installation of fire detectors;
 - e. ventilation systems;
 - f. upgrade of bathroom and kitchen as required to remove lead hazards and meet current housing codes. Where work is contained within the existing bathroom or kitchen.
5. Roof repair or replacement of historic wood and asphalt roofing with material which closely matches the existing material and form. Cement asbestos shingles may be replaced with asphalt-based shingles. Repair or replacement of other kinds of historic roofing material (including metal, slate and ceramic tile) ***must be submitted to the SHPO for review and concurrence.***
6. Repair, replacement, or installation of gutters and downspouts.
7. Installation of insulation in ceilings, attic, and basement spaces provided it is installed with appropriate ventilation and vapor barriers and within wall cavities provided that decorative interior plaster, woodwork, or exterior siding is not altered.
8. Replacement of suspended ceiling tile.
9. Repainting of exterior surfaces, provided that destructive surface preparation treatments, including, but not limited to water blasting, sandblasting, and chemical cleaning, are ***not*** used.
10. Repair of porches, cornices, exterior wooden siding, doors, balustrades, stairs, or other trim when the repair is done ***in-kind*** to closely match existing material and form.
11. Removing and replacing existing window sash, window jambs, or jamb liners, with new vinyl or aluminum clad wood components to match the visual components of the historic sash, ***so long as the windows are not character-defining.***
12. Caulking, weather stripping, re-glazing, and repainting of windows.
13. Repair, replacement or installation of storm windows (exterior, interior, metal, or wood only), provided they match the shape and size of historic windows, and that the meeting rail coincides with that of the historic window. Color should match trim, if possible.

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14. Removing and replacing interior and exterior doors with matching components. Original front entrance doors to be labeled, plastic wrapped and stored on site. New exterior door to closely match existing style.
15. Replacement of non-significant flat stock trim with identical flat-stock trim ("clamshell" molding is **NOT** acceptable).
16. Treatment of interior surfaces (floors, walls, ceilings, or woodwork), when work is limited to repainting, refinishing, repapering, replacing drywall with drywall, replacing failing asbestos plaster with plaster or drywall, or replacement/installation of carpet, sheet (resilient) or tile flooring, provided that the original flooring is not damaged by installation of the new surface.
17. Interior lead hazard control when it is limited to washing, scraping, and repainting, wallpapering, and chemical stripping of lead-painted surfaces, in a manner that meets applicable state and federal requirements.
18. Repair or replacement of water, gas, storm, and sewer lines if it occurs within the dimensions of the original trench.
19. Interior improvements required to bring buildings into compliance with the Americans with Disabilities Act (ADA) so long as these improvements do not impact character-defining features.